

APPEAL NO. 022120
FILED SEPTEMBER 30, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). The appellant (attorney) represented respondent 1 (carrier) and has filed an application for attorney fees with the Texas Workers' Compensation Commission (Commission) pursuant to Section 408.222 for representing a client under the 1989 Act. The fee application received by the Commission was for work performed from February 7 through February 28, 2002. On August 7, 2002, a "COMMISSION ORDER FOR ATTORNEY'S FEES," issued by a benefit review officer (BRO) reduced the amount requested by \$675.00. The BRO explained that she does not have the authority to award contested case hearing (CCH) attorney fees. The attorney argues on appeal that his fees were reasonable and necessary. Neither the carrier or respondent 2 (claimant) has submitted a response to the attorney's appeal.

DECISION

A jurisdictional basis does not exist for our review since the order on attorney fees was not entered by a hearing officer following a CCH. Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 152.3(d) (Rule 152.3(d)) requires any party who wants to contest fees fixed and approved by the Commission to request a "benefit [CCH]." The only exception to Rule 152.3(d) is Rule 152.3(e) which requires:

(e) An attorney, claimant, or carrier who contests the fee ordered by a hearing officer after a benefit [CCH] shall request review by the appeals panel pursuant to the provisions of § 143.3 of this title (relating to Requesting the Appeals Panel to review the Decision of the Hearing Officer).

The attorney missed the point of the explanation provided by the BRO in the log text entry of the Attorney Fee Processing System. The BRO told the attorney that he would need to resubmit fees relating to a CCH separately. That is his remedy under these circumstances, rather than an appeal to the Appeals Panel.

The request for review is ordered dismissed, as it seeks review of a matter which is not within our jurisdiction at this time.

The true corporate name of the insurance carrier is **AMERICAN CASUALTY COMPANY OF READING, PENNSYLVANIA** and the name and address of its registered agent for service of process is

**CT CORPORATION
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Michael B. McShane
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Margaret L. Turner
Appeals Judge